

**ONE HUNDRED THIRD LEGISLATURE - SECOND SESSION - 2014**  
**COMMITTEE STATEMENT**  
**LB749**

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**Hearing Date:** Monday February 03, 2014  
**Committee On:** Banking, Commerce and Insurance  
**Introducer:** Harr  
**One Liner:** Adopt the Nebraska Model Business Corporation Act

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File

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**Vote Results:**

**Aye:** 8 Senators Campbell, Carlson, Christensen, Garrett, Gloor, Howard, Pirsch, Schumacher

**Nay:**

**Absent:**

**Present Not Voting:**

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**Proponents:**

Senator Burke Harr  
Colleen Byelick  
Katie Zulkoski  
Larry Ruth

**Representing:**

Introducer  
Secretary of State  
NE State Bar Association  
Self and NE Uniform Law Commissioners

**Opponents:**

**Representing:**

**Neutral:**

**Representing:**

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**Summary of purpose and/or changes:**

LB749 (Harr) would enact a revised and updated Nebraska Model Business Corporation Act (NMBCA) and would repeal Nebraska's current Business Corporation Act, Neb. Rev. Stat. Sections 21-2001 to 21-20,197.

The proposed NMBCA, as well as the current act, is based on the Model Business Corporation Act as approved and promulgated by the Committee on Corporate Laws of the Section of Business Law of the American Bar Association. The ABA committee is constantly updating its model act with substantive and stylistic changes throughout. In 1995, Nebraska enacted its present Business Corporation Act based on what was the updated ABA model as it existed in 1994. Nebraska has adopted very few of the ABA committee's subsequent updates in the past two decades.

The subject areas of the bill are as follows:

1. GENERAL PROVISIONS

Short Title and Reservation of Power (sections 1 and 2)  
Filing Documents (sections 3 to 12)  
Secretary of State (section 13)  
Definitions (sections 14 to 18)

2. INCORPORATION (sections 19 to 25)

3. PURPOSES AND POWERS (sections 26 to 29)
4. NAME (sections 30 to 32)
5. OFFICE AND AGENT (sections 33 to 36)
6. SHARES AND DISTRIBUTIONS
  - Shares (sections 37 to 40)
  - Issuance of Shares (sections 41 to 49)
  - Subsequent Acquisition of Shares by Shareholders and Corporation (sections 50 and 51)
  - Distributions (section 52)
7. SHAREHOLDERS
  - Meetings (sections 53 to 61)
  - Voting (sections 62 to 71)
  - Voting Trusts and Agreements (sections 72 to 74)
  - Derivative Proceedings (sections 75 to 82)
  - Proceedings to Appoint Custodian or Receiver (section 83)
8. DIRECTORS AND OFFICERS
  - Board of Directors (sections 84 to 94)
  - Meetings and Action of the Board (sections 95 to 101)
  - Directors (sections 102 to 104)
  - Officers (sections 105 to 109)
  - Indemnification and Advance for Expenses (sections 110 to 119)
  - Directors' Conflicting Interest Transactions (sections 120 to 123)
  - Business Opportunities (section 124)
9. DOMESTICATION AND CONVERSION
  - Preliminary Provisions (sections 125 and 126)
  - Domestication (sections 127 to 132)
  - Nonprofit Conversion (sections 133 to 138)
  - Foreign Nonprofit Domestication and Conversion (sections 139 to 142)
  - Entity Conversion (sections 143 to 149)
10. AMENDMENT OF ARTICLES OF INCORPORATION AND BYLAWS
  - Amendment of Articles of Incorporation (sections 150 to 158)
  - Amendment of Bylaws (sections 159 and 160)
11. MERGERS AND SHARE EXCHANGES (sections 161 to 168)
12. DISPOSITION OF ASSETS (sections 169 and 170)
13. APPRAISAL RIGHTS
  - Right to Appraisal and Payment for Shares (sections 171 to 173)
  - Procedure for Exercise of Appraisal Rights (sections 174 to 180)
  - Judicial Appraisal of Shares (section 181 and 182)
  - Other Remedies (section 183)
14. DISSOLUTION
  - Voluntary Dissolution (sections 184 to 192)
  - Administrative Dissolution (sections 193 to 196)
  - Judicial Dissolution (sections 197 to 201)

Miscellaneous (section 202)

15. FOREIGN CORPORATIONS

Certificate of Authority (sections 203 to 212)

Withdrawal or Transfer of Authority (sections 213 to 216)

Revocation of Certificate of Authority (sections 217 to 220)

16. RECORDS AND REPORTS

Records (sections 221 to 226)

Reports (sections 227 and 228)

PUBLICATION (section 229) (nonmodel section)

18. TRANSITION PROVISIONS (sections 230 to 232)

The bill would also amend various sections outside the current Business Corporation Act in order to harmonize provisions and internal references. (sections 233 to 294) In particular, the bill would make such changes in sections of Chapter 21, article 3, which provide for the filing of biennial reports and corporate occupation tax. In order to make these sections more consistent with generally accepted usage, references to "automatic" dissolution and revocation would be changed to "administrative" dissolution and revocation and references to biennial "fees" would be changed to biennial "occupation taxes." The latter change would be only a harmonization of long-standing inconsistent terminology usage and would not create a new tax or increase an existing tax. (sections 238 to 261)

The bill would provide for an operative date of January 1, 2016. (section 295)

The bill would provide for severability. (section 296)

The bill would provide for repealers for the amendatory sections. (section 297)

The bill would provide for outright repealers for the sections of the current Business Corporation Act. (section 298)

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Mike Gloor, Chairperson